C.S.-19-

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH

AT BILASPUR

Writ Petition No. 1671 **of 2004**

PETITIONER : Smt. Rekha Singh @ Amrita Singh aged 30 years, W/o Dr. Jitendra Kumar Singh, R/o at present Vill. Khedchhapra, post Siktaria, P.S. & Tahsil Mahrajganj, Distt. Shivan (Bihar)

P. R. No. 1645/04
Presented by Shri P.N. Prajapati
Dated 15-6-04

VERSUS

RESPONDENT : Dr. Jitendra Singh S/o Shivaji Singh aged about 30 years, R/o House No. 303, Near Jagir Chowk, Vegetable Market, Khursipar, Bhilai Tahsil & District Durg (C.G.)

PETITION UNDER ARTICLES 227 OF THE CONSTITUTION OF INDIA , FOR ISSUANCE OF SUITABLE DIRECTIONS, ORDERS OR WRITS INCLUDING WRITS IN THE NATURE OF CERTIORARI, MANDAMUS ETC.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.1641/04 सन् ~~200~~

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

12-04-2005

Shri D.N.Prajapati counsel for the petitioner.

Heard on the question of admission.

On 10-02-2005 this Court permitted the petitioner to affect Dasti Service on the counsel for the respondent in the Trial Court. In compliance of the said order Dasti Notice was handed over to the counsel for the petitioner for service of the same on the counsel for respondent in trial Court. An affidavit of one Shri Yugal Kishor Singh, father of the petitioner has been filed in which it is stated that he went to the counsel for the respondent namely Ku. Mani Karnika Sharma in the trial Court on 05-04-2005 but she refused to accept the notice and declined to give acknowledgement of the same. In view of the above service on respondent is held to be effected.

Heard counsel for the petitioner.

The petitioner has filed this petition against the impugned order dated-12-05-2004 passed by IV A.D.J, Durg in case No. 161-A/2003 by which the application of the petitioner under Section 24 of Hindu Marriage Act as also the application filed under order 14 Rule 5 of C.P.C. have been rejected.

Case of the petitioner is that she is a married wife of the respondent Dr. Jitendra Kumar Singh. Earlier an application for divorce under Section 12(1)(c) read with Section 13 of the Hindu Marriage Act was filed by the respondent before the III A.D.J, Durg registered as Civil Case No. 150-A/1999 which was dismissed vide judgment dated 08-03-2000 by recording a finding that the said application has been preferred before the expiry of one year of the marriage and as such the same was not maintainable. Thereafter, the

(पीछे देखिये)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(51)

आदेश पत्रक

मामला क्रमांक W.P. 1641/04 **सन्** ~~200~~

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

respondent filed an application for divorce under Section 13 of Hindu Marriage Act which was registered as Civil suit No. 114-A/2002. In Civil Suit No. 114-A/2002 the petitioner herein also made an application under Section 24 of the Hindu Marriage Act praying for grant of expenses @ Rs. 2500/- per date of hearing and Rs. 25,000/- as expenses for prosecuting the case. Apart from this, the petitioner also preferred an application under order 14 Rule 5 of C.P.C. for praying for framing of preliminary issue to the effect that whether the Court has jurisdiction to hear the suit.

By the impugned order the application for interim maintenance has been rejected by the Court below on the ground that the application under Section 24 of the Hindu Marriage Act has been rejected by order dated 30-08-2003 in the absence of the applicant and therefore no fresh application for the same relief is maintainable and accordingly the application under order 14 rule 5 of C.P.C has also been rejected without assigning any reason.

Having heard learned counsel for the petitioner this Court of the view that the order of the Trial Court rejecting the application for interim maintenance on the ground that an application under Section 24 of the Hindu Marriage Act has been rejected, appears to be unjustified because the Court below ought to have decided the application on merits and to that extent the impugned order is set aside and it is directed that trial Court shall decide the application afresh after giving due opportunity of hearing to the parties.

With the aforesaid observations the petition is disposed of.

Sd/-
Dhirendra Mishra
Judge

Jyo

(पीछे देखिये)